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NOTE BY THE SECRETARY-GENERAL

The Secretary-General has the honour to transmit to the Security Council a report submitted by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991).

Annex

Report by the Executive Chairman of the Special Commission

Introduction

1. In response to a wish expressed by members of the Security Council, the Special Commission herewith presents an account of the Government of Iraq's attitude on certain aspects of implementation of its obligations under section C of Security Council resolution 687 (1991) and subsequent relevant resolutions and agreements.

Recent developments

(a) Installation of monitoring cameras

2. On 6 June 1993, the Special Commission informed Iraq of its intention to install remote control cameras to monitor rocket test stands at two sites, Yawm al Azim and Al Rafah. On 7 June 1993, a senior Iraqi representative informed the chief of the UNSCOM expert team dispatched to Iraq for the installation of the cameras that Iraq would not accept any monitoring activities and would insist that the Special Commission limit itself to inspection activities under resolution 687.

3. This position was confirmed in a letter of 8 June 1993 from Mr. Riyadh al-Qaysi, Iraqi Deputy Minister for Foreign Affairs, to the Deputy Executive Chairman of the Special Commission, which stated that the installation of the cameras did not fall under the purview of resolution 687 (1991) "but rather comes within the framework of matters and questions that are still the subject of dialogue between the Iraqi authorities on the one hand and the Special Commission on the other".

4. In a letter of 9 June 1993 to the Deputy Foreign Minister, the Executive Chairman stated that the installation of cameras was "done in implementation of the mandate entrusted to the Commission by the Council in resolution 687 (1991) and the subsequent resolutions of the Council which are required by the terms of or elaborate upon the provisions of section C of resolution 687 (1991), all of which were adopted under Chapter VII of the Charter". The Chairman continued in his letter:

> "I am thus reporting to the President of the Council that Iraq has refused to permit the inspection team to install essential equipment which would allow the Commission to determine on a continuing basis whether, at the sites in question, Iraq is meeting its unconditional undertaking not to use, develop, construct or acquire missiles prohibited in terms of paragraph 8 of the same resolution. This breach of resolution 687 (1991), and other Council decisions, is compounded by a breach of the status arrangements of May 1991 between the United Nations and Iraq, pursuant to which the Commission has the 'right to install equipment or construct facilities for observation, inspection, testing or monitoring activity ...'."

5. The Deputy Foreign Minister responded in a letter of 11 June 1993 to the Executive Chairman, inter alia, the following:

> "With regard to the question of setting up cameras at Yawm Al-A'zam and Al-Rafah sites, I should like, first of all, to remind you that what we requested in our letter dated 8 June 1993 was 'postponement of the decision' on the subject until the convening of the meeting that we had proposed in the letter dated 30 May 1993 from the Minister for Foreign Affairs. Thus, what really gives rise to surprise is that you should infer from this legitimate and permissible request that the Iraqi authorities had refused permission for the inspection team to perform its assigned task, particularly after the reasons and motives for our position had been explained in detail at two extensive meetings to Mr. Nikita Smidovich on 7 and 8 June, and most particularly after my telling him that we were not opposed to the principle of the use of cameras in the Special Commission's work. Indeed, the main thing is a discussion of this question and the other questions that are regarded as outstanding in the dialogue for which we called. With the exception of this question, the inspection team has carried out and is carrying out all the tasks for which it came, with facility and with the full cooperation of the competent Iraqi authorities ...".

6. At a meeting the same day with the Permanent Representative of Iraq to the United Nations, the Executive Chairman repeated the position of the Commission as outlined in the letter of 9 June.

7. Resolution 687 calls on Iraq not to reacquire banned weapons and items and on the Commission to verify Iraq's compliance with all its obligations. Based on resolution 687, Iraq and the United Nations exchanged letters in May and June 1991 which form the status agreement for UNSCOM and IAEA operations in Iraq. This specifically allows UNSCOM to "install equipment or construct facilities for observation, inspection, testing or monitoring activity". The Iraqi position ignores the fact that resolution 687 (1991) called for the Secretary-General to draw up a plan for ongoing monitoring and verification of Iraq's obligations not to reacquire banned items or capabilities. This plan was duly approved under resolution 715 (1991), adopted unanimously by the Security Council acting under Chapter VII of the Charter. Thus the issue is not even up for discussion, let alone "still the subject of dialogue" - the plan is mandatory and enforceable. Indeed, the Council has repeatedly rejected Iraq's earlier calls for dialogue on the terms of implementation of the Council's resolutions and has demanded Iraq's full compliance with all relevant resolutions, including resolution 715 and the plans approved thereunder (S/23517, S/23609, S/23663, S/23699, S/23709, S/24836, S/24839).

8. On 14 June 1993, in separate conversations between officials from the Special Commission on the one hand and, on the other, with the Permanent Representative of Iraq to the United Nations in New York and with the Deputy Foreign Minister of Iraq in Vienna, the Commission again informed Iraq of the seriousness of the situation and of the urgency of resolving the issue of installation of the cameras.

9. Iraq's obstruction in this instance is a further failure by Iraq to fulfil its obligations under relevant resolutions of the Security Council and

agreements with the Special Commission. Its insistence that UNSCOM limit itself to activities under resolution 687 is a direct challenge to the authority of the Security Council and the force of its resolutions adopted under Chapter VII of the Charter.

(b) Destruction of chemical production equipment

10. On 15 April 1993, during inspection UNSCOM55, the Chief Inspector handed over to the Iraqi side a letter requiring the removal by 31 May 1993 of chemical weapons precursor chemicals and certain items of equipment used in the $PCl_3/POCl_3$ production plant at Fallujah to Muthanna for destruction there under UNSCOM supervision. These items had been acquired by Iraq specifically for the production of these chemical weapons precursors and as part of Iraq's CW programme. Consequently, the Commission decided that they needed to be destroyed. Irreversible conversion was not possible and, in any case, Iraq continues not to accept monitoring of dual-purpose equipment under the terms of the plans for ongoing monitoring and verification approved by the Council in its resolution 715 (1991) adopted unanimously under Chapter VII of the Charter. In such conditions, the Commission cannot guarantee the non-prohibited use of any equipment redeployed by Iraq.

11. Iraq replied to this demand on 29 April 1993 saying that it wished to redeploy this equipment for use in insecticide production. On 14 May 1993, the Commission responded that it had taken into account Iraq's request for reuse of the equipment but that it stood by the earlier decision that, because the items were specifically acquired for the purpose of chemical weapons production, the equipment be removed and destroyed. Iraq responded to this letter on 27 May 1993, saying that the Commission had gone to extremes, adverse to Iraq, in interpreting its mandate, criticizing it, the Sanctions Committee and the Security Council respectively for their decisions relating to the destruction of equipment associated with weapons programmes, to Iraq's requests for imports, and to the decisions to maintain sanctions. It accused the Commission and the Committee of following a policy of revenge against the Iraqi people and requested that the Commission change its decision. The Commission again responded on 4 June 1993, reminding Iraq of its obligations under the relevant resolutions and the Commission's rights and duties. It explained that the equipment in question could not be rendered harmless as it was intrinsically capable of being used for prohibited purposes and could quickly be reconverted for such. It gave Iraq until 10 June 1993 to complete the removal of the equipment and warned Iraq that failure to do so would result in the Commission reporting the matter to the Council.

12. In a letter of 11 June 1993 to the Executive Chairman, the Deputy Foreign Minister stated, inter alia:

> "Iraq ... remains prepared to give the Special Commission, through bilateral technical consultations, practical guarantees to ensure the peaceful use of this equipment in the long term. Furthermore, we see no practical or technical justification for linking the subject of guarantees which Iraq has proposed to provide of the peaceful use of this equipment to the attitude to resolution 715 (1991), in particular after our assurances that we are prepared to give the Special Commission practical guarantees to ensure non-prohibited use" and "we repeat our proposal for a detailed

technical discussion between the experts of both sides in order to arrive at a joint formula which would give the Special Commission assurances and guarantees concerning the peaceful uses of this equipment in the long term".

13. At the above-mentioned meeting of 11 June, the Executive Chairman reiterated that the Commission had to insist on the destruction of chemical weapons production equipment, as this equipment was acquired exclusively for weapons purposes, and if converted for non-military use, could readily be reconverted for proscribed use.

14. On 12 June an inspection team of the Commission reported from an inspection at the Fallujah production plant that the equipment to be destroyed (with the exception of one reactor vessel which had been moved to Muthanna) was still kept at Fallujah. Commission personnel continue to monitor the situation. As of 15 June, only 5 of the 11 pieces of equipment had been moved from Fallujah to Muthanna. A quantity of the precursor chemicals also had not been moved. The Commission has, so far, no undertaking by Iraq to move all the items, as instructed.

15. Iraq's continuing and insistent refusal to move the chemical weapons production equipment at Fallujah to Muthanna for immediate destruction is an outright violation of its obligations under resolution 687 (1991), which puts into question Iraq's overall readiness to implement the relevant resolutions.

General context

16. These events in Iraq during the last week have confirmed assessments made in recent reports of the Special Commission to the Security Council. The report of 19 April 1993 (S/25620) noted, inter alia, that:

- "there has been no movement in Iraq's underlying negative position on the plan and resolution 715 (1991)";

- "the Commission understood [Iraq's insistence that interim monitoring be conducted under resolution 687] to mean that Iraq would prevent this team, or any other, from operating under the terms of the plan approved under resolution 715 (1991)"; and

- "Iraq has, through its conduct over recent months, consistently demonstrated its desire to limit the Commission's inspection rights and operational capabilities through seeking to place restrictions on the inspectors in the course of their work".

17. The report of 17 December 1992 as S/24984 noted that:

"it is difficult not to believe that the decrease in security is the result of a centrally coordinated government campaign to intimidate and humiliate UNSCOM staff. While some incidents may be spontaneous, the atmosphere in which such acts might be considered by Iraqi citizens has been fostered by Iraqi officials, presumably with the backing of the Government, and those officials have done little to rectify the situation."

18. All the above has to be seen in the context of repeated incidents of harassment of UNSCOM and other United Nations personnel in Iraq, most recently seen in the attack on UNSCOM vehicles reported to the Council on 8 June 1993, and against the background of Iraq's conduct over recent months, consistently demonstrating its effort to limit the Commission's inspection rights and operational capabilities (see the annex to report S/25620 of 19 April 1993).

19. Amongst the most serious of these impediments to the Commission's task has been Iraq's attitude towards the use of helicopters for the purpose of surveillance and operational support. Iraq's blocking of an helicopter aerial surveillance flight was reported to the Council in paragraph 11 (f) of report S/24984. Iraq refused that flight on the grounds that it would overfly Baghdad. Since then, and on a continuing basis, Iraq has hindered the work of the Commission by automatically objecting to any proposed helicopter flight which entails a "box" in the vicinity of Baghdad. (Such "boxes" tend to be in the order of 40 km^2. They are given to the Iraqi authorities the night before a flight to enable them to ensure that Iraqi air defences are aware of the UNSCOM flight and hence do not treat it as a hostile intruder while at the same time not revealing the precise site to be surveyed.)

20. The resolutions provide the Commission with the absolute right to fly aerial surveillance over Iraq without exception. While the Commission seeks to take into account Iraq's legitimate concerns, security or otherwise, it has informed Iraq that it must and will assert its right to overfly Baghdad as and when there is an operational need to do so. Such an operational need may arise at any time, depending on the information and equipment available to the Commission.

Conclusions

21. Iraq has sought to make an issue of principle out of the installation of the monitoring cameras. This fits in with a general pattern of statements and behaviour on the part of Iraq concerning those aspects of resolution 687 (1991) and subsequent resolutions which deal with the long-term monitoring of Iraq's obligations not to reacquire the weapons capabilities banned to it under the terms of the cease-fire resolution. Essentially, while not explicitly rejecting the monitoring provisions but rather expressing a willingness to renegotiate their terms, Iraq's actions have, in effect, prevented the initiation of implementation of the plans for ongoing monitoring and verification adopted under resolution 715 (1991) and amount to a de facto rejection of the Council's resolutions and decisions in this regard.

22. The Commission insists on the destruction of the chemical production equipment and the precursor chemicals because both were specifically acquired for Iraq's chemical weapons programme. The equipment is inherently such that it could easily and rapidly be reconverted from permitted to prohibited purposes.